

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- -X
JUSTIN GOLDMAN,

Plaintiff,

- against -

COMPLEX MEDIA, INC.,

Defendant.
----- X

COMPLAINT FOR
COPYRIGHT INFRINGEMENT

JURY DEMANDED

INTRODUCTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. 106(5) based on the unauthorized for-profit full display by one or more websites owned by defendant of a photograph created by plaintiff that is protected by a federal copyright duly registered with the United States Copyright Office (Certificate No. Vau 1-250-526.).

POSSIBLY RELEVANT DISCLOSURE

2. There is currently pending in this Court a separate action for, in part, copyright infringement pursuant to 17 U.S.C. 106(5) commenced by plaintiff here against other defendants based on their unauthorized for-profit full display of the photograph at issue in this action. That action is Goldman v. Breitbart News Network, LLC, et al., 17 Civ. 3144 (AJN)(SN). In that action, the Honorable Katherine B. Forrest, U.S.D.J., who presided over the case before her retirement from the Court in 2018, granted summary judgment to plaintiff on a specific legal issue, namely whether the process of “embedding” provides a defense to the defendants’ alleged copy-

right infringements. The Court's judgment held that embedding provided no such defense. 302 F.Supp.3d 585 (S.D.N.Y. 2018).

THE PARTIES

3. Plaintiff Justin Goldman is a resident of the City and State of New York.
4. Defendant is a business entity based in New York State that owns and is legally responsible for one or more websites that committed the copyright infringements that are the subject of this action.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1338. Venue in this district is proper pursuant to 28 U.S.C. §1400(a).

UNDERLYING FACTS

6. On July 2, 2016, plaintiff created a photograph of (now more than ever) NFL superstar Tom Brady (and others) ("the Photo"). A copy of the Photo is annexed hereto as Exhibit "A."
7. Without plaintiff's knowledge or consent, the Photo was uploaded to the Internet.
8. On information and belief, one or more websites owned by defendant and for which defendant is legally responsible, without any legal authority to do so, prominently displayed, in full and in full color, for for-profit purposes, a copy of the Photo.
9. On information and belief, defendant may well be the most prolific "repeat infringer" in this district. Attached hereto as Exhibit "B" is a print-out of a list from the SDNY ECF Docket showing only some of the recent copyright infringement actions brought against defendant in this district alone. (See also, Hirsch v. Complex Media, Inc., 2018 U.S. Dist. LEXIS 209701 (S.D.N.Y. December 10, 2018) (McMahon, C.J.))

CAUSE OF ACTION FOR
COPYRIGHT INFRINGEMENT AGAINST DEFENDANT

10. Plaintiff incorporates here the contents of Paragraphs 1 through 9 above.

11. The United States Copyright Act grants to all copyright owners the "exclusive right" to "display" their copyrighted works "publicly," 17 U.S.C. 106(5), and the Act defines "display" as "to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially." 17 U.S.C. 101. Defendant's websites violated plaintiff's "exclusive right" to "display" the Photo by its separate public displays of it without plaintiff's knowledge or consent. Accordingly, defendant is liable to plaintiff for each separate infringement by those websites of the registered copyright in the Photo.

WHEREFORE, with respect to each act of copyright infringement by defendant's websites, plaintiff demands judgment a) issuing a permanent injunction preventing defendant's websites from making any further unauthorized use or display of the Photo; b) awarding to plaintiff all appropriate damages, including statutory damages, as determined by the Court or jury; c) awarding to plaintiff profits attributable to each infringement; d) awarding to plaintiff costs and attorneys' fees; and e) awarding such other relief as the Court deems just.

Dated: April 3, 2019

s/ Kenneth P. Norwick (KN4622)
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EXHIBIT “A”



EXHIBIT “B”

Select A Case

Complex Media, Inc. is a defendant in 15 cases.

<u>1:16-cv-02700-KMW</u>	Sadowski v. Complex Media, Inc.	filed 04/11/16	closed 04/25/16
<u>1:16-cv-03453-LGS</u>	Sadowski v. Complex Media, Inc.	filed 05/09/16	closed 05/25/16
<u>1:16-cv-09157-LAP</u>	Rock v. Complex Media, Inc.	filed 11/25/16	closed 01/04/17
<u>1:16-cv-09258-GBD-AJP</u>	Abramov v. Complex Media, Inc. et al	filed 11/30/16	closed 11/02/17
<u>1:17-cv-00487-GBD</u>	Bachner v. Complex Media, Inc.	filed 01/23/17	closed 02/24/17
<u>1:17-cv-01547-AJN</u>	Chevrestt et al v. Complex Media, Inc.	filed 03/01/17	closed 05/11/17
<u>1:17-cv-01634-JPO</u>	Mango v. Complex Media, Inc.	filed 03/03/17	closed 04/17/17
<u>1:17-cv-03993-ALC-GWG</u>	Sands v. Complex Media, Inc.	filed 05/26/17	closed 12/19/18
<u>1:17-cv-06405-RWS</u>	McKnight v. Complex Media, Inc.	filed 08/22/17	closed 01/29/19
<u>1:17-cv-07395-LTS-KNF</u>	Tabak v. Complex Media, Inc.	filed 09/27/17	closed 03/21/19
<u>1:17-cv-09675-PGG</u>	Gottfried v. Complex Media, Inc. et al	filed 12/08/17	closed 07/18/18
<u>1:18-cv-01014-ALC-KNF</u>	Sadowski v. Complex Media, Inc.	filed 02/06/18	closed 01/02/19
<u>1:18-cv-03804-DLC</u>	Alcorn v. Complex Media, Inc.	filed 04/30/18	closed 08/30/18
<u>1:18-cv-05488-CM</u>	Hirsch v. Complex Media, Inc.	filed 06/18/18	
<u>1:19-cv-00401-AJN</u>	Beasley v. Complex Media, Inc.	filed 01/15/19	

PACER Service Center

Transaction Receipt

04/02/2019 15:16:36